

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANTOINE D. JOHNSON, M.D.,

Plaintiff,

V.

GRAYS HARBOR COMMUNITY HOSPITAL; Gray Harbor Community Hospital Medical Staff; Grays Harbor Community Hospital Governing Board; Ki Shin, MD; Tim Troeh, MD; Brent Rowe, MD; Gregory May, MD; Daniel Canfield, MD; Robin Francisovich, MD; Thomas J. Hightower; Shelly Duber, MD; and Does 1 through 50 inclusive.

## Defendants.

Case No. C06-5502FDB

ORDER DENYING MOTION TO REQUEST SPECIAL MASTER TO OVERSEE DISCOVERY; SETTING COMPLIANCE DATE; and PROVIDING FOR RENEWAL OF MOTION FOR SPECIAL MASTER FOR DISCOVERY

This matter is before the Court on the motion of Defendants Grays Harbor Community Hospital (GHCH), Brent Rowe, MD, and Thomas J. Hightower for appointment of a special master to oversee discovery. Discovery cut-off in this case is established as November 19, 2007, dispositive motions to be filed December 7, 2007, and the trial date is March 17, 2008.

## BACKGROUND AND MOTION

Plaintiff joined the GHCH medical staff in fall 2001 on a one-year initial appointment to the provisional staff, obtained an active staff two-year appointment in November 2002. In September

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1 2004, Plaintiff was suspended from the GHCH Medical Staff for quality of care problems. Plaintiff,  
2 representing himself, disputes the reason for his termination, and alleges, among other things, that  
3 GHCH did not enforce Medical Staff Bylaws because of Plaintiff's race, Black American.

4 In requesting appointment of a special master to supervise discovery in this case, Defendants  
5 assert that despite efforts to confer and to obtain discovery without court intervention, Plaintiff has  
6 been uncooperative and obstructed discovery. [See Decl. of Sherry H. Rogers and attached exhibits.]  
7 Defendants contend that a discovery master would help not only to protect Defendants' interests  
8 from discovery abuses, but that an impartial and experienced special master could also provide  
9 valuable guidance and oversight for the benefit of this *pro se* plaintiff. Defendants propose to divide  
10 the costs of a discovery master as follows: two thirds of the costs to be borne by Defendants, and  
11 one third the cost to be borne by Plaintiff.

12 Plaintiff objects to appointment of a special master arguing that all the issues can be  
13 addressed effectively and timely by the parties themselves or by an available district judge or  
14 magistrate judge of the district. Plaintiff also does not want to incur the costs of a special master and  
15 further argues that if one is appointed, as there are twelve parties, the division should be one twelfth  
16 to Plaintiff with the remainder to be divided among the defendants.

## 17 DISCUSSION

18 Plaintiff alleges nine causes of action in this case, and Defendants may rightfully inquire into  
19 the factual basis for the claims against them. Defendants aver that they have responded to Plaintiff's  
20 interrogatories and requests for production, while objecting pursuant to RCW 70.41.200 to  
21 statutorily protected quality assurance documents and to confidential files on individual physicians.  
22 Also Defendants have made documents available to Plaintiff for inspection and copying at a time to  
23 be mutually arranged, but Plaintiff has not arranged a time for inspection of documents.

24 It is recognized that in order to maintain the trial and other action dates, discovery must  
25 proceed in an orderly fashion pursuant to the Federal Rules. Contention may defeat cooperation and  
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1 effective discovery, and this process may be exacerbated when one party is *pro se*. A review of the  
2 parties' submissions on this motion reveals a basis for requesting a special master. Plaintiff,  
3 however, will be given an opportunity to respond fully to the Defendants' discovery requests before  
4 directing the appointment of a special master for discovery. ACCORDINGLY,

5 IT IS ORDERED:

6 1. Motion of Defendants Grays Harbor Community Hospital, Brent Rowe, MD, and  
7 Thomas Hightower for Appointment of Special Master To Oversee Discovery [Dkt. #  
8 66] is DENIED subject to being renewed should Plaintiff fail to produce the  
9 requested discovery in accordance with the Federal Rules of Civil Procedure;  
10 2. Plaintiff shall have until June 12, 2007 to produce the requested discovery; failure to  
11 produce the discovery by that date may result the appointment of a special master to  
12 oversee discovery.

13 DATED this 21<sup>st</sup> day of May, 2007.

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17 FRANKLIN D. BURGESS  
18 UNITED STATES DISTRICT JUDGE  
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